

Remarks

Claims 1 through 4 are pending in the instant application. The Examiner has maintained the rejection of claims 1 through 4 for statutory type double patenting of the "same invention" under 35 U.S.C. § 101 as claiming the same invention as that of claims 1 through 16 of prior U.S. Patent No. 6,406,715 B1 (Cefali). The Examiner maintains that the release profiles would inherently be the same in the reference as in the instant application because the formulations are the same as both the instant application and reference claim a composition. The Examiner further states that Applicants arguments in the previous response to the previous Office Action appear more suitable for method claims. Applicant has amended the claims of the current application to method claims and reasserts the arguments from the previous response, a copy of which is attached hereto.

Applicant submits that the claims, as per the proposed amendments, are patentable over Cefali and urges for allowance of the instant application. Should the Examiner have any questions or require additional information or clarification, please contact the undersigned at the contact information indicated below.

Respectfully submitted,

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CERTIFICATION UNDER 37 C.F.R. §1.8

I hereby certify that this correspondence is being deposited with the United States Postal Service as First Class Mail in an envelope addressed to the Commissioner for Patents, Mail Stop RCE, P.O. Box 1450, Alexandria, VA 22313-1450 on the date indicated below.

7/26/05
Date

Karen Messick